

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.10529 of 2006

22.2.2007

Between:

G.Sammaiah, S/o.Shankaraiah,

... Petitioner

AND

The Secretary to Government of Andhra Pradesh,
Panchayat Raj Department, Secretariat, Hyderabad
And another

... Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.10529 of 2006

ORDER:

The petitioner was elected as Sarpanch of Mallial Gram Panchayat in Karimnagar District in 2001. On an allegation that the petitioner diverted 9.75 Quintals of rice meant for Food For Work (FFW) programme, the second respondent initiated action under Section 249(1) of A.P. Panchayat Raj Act, 1994 (the Act, for brevity), issued a show cause notice dated 20.6.2002 and after considering the same, in exercise of powers conferred under Section 249(1) of the Act, the District Collector, Karimnagar – second respondent herein; issued proceedings dated 22.7.2002 removing the petitioner as Sarpanch with effect from 23.8.2002 and also directing the Upa Sarpanch to take charge the post of Sarpanch. Aggrieved by the said orders, the petitioner preferred appeal/revision under Section 249(7) of the Act before the first respondent. Alleging that the first respondent did not pass orders on the stay application, the petitioner filed W.P.No.17984 of 2002. This Court allowed the said writ petition on 19.9.2002 suspending the proceedings of the second respondent. Be that as it is, subsequently, the first respondent by G.O.Rt. No.455, dated 03.4.2006, rejected the appeal/revision filed by the petitioner, aggrieved by which, the present writ petition is filed.

Learned Counsel for the petitioner submits that the allegation made against the petitioner that he diverted rice meant for FFW programme is not correct and no enquiry was conducted prior to passing removal orders. The same is refuted by the learned Assistant Government Pleader for Panchayat Raj.

The submission of the learned Counsel for the petitioner that the explanation submitted by the petitioner was not considered, cannot be accepted. A perusal of the order passed by the second respondent

would show that after considering the explanation submitted by the petitioner received on 29.6.2002, the second respondent observed that the petitioner tried to sell the rice meant for FFW programme willfully without disbursing to coolies. Further when the appeal was pending before the first respondent, the Government called for a report from the second respondent. In his report, the District Collector stated that the petitioner diverted 97.5 Quintals of rice meant for FFW programme and attempted to black-market the rice. The Government heard the matter and came to the conclusion that the petitioner is involved in misappropriation of rice.

After perusing the material, this Court is not able to countenance the submission that when the orders passed by the respondents, the petitioner was not given adequate opportunity. Placing reliance on the records, both the authorities passed orders against the petitioner. In such a case, no interference is called for. Further, the term of the petitioner already expired in August 2006 and subsequently elections were also conducted. The apprehension of the petitioner that he incurs disqualification under Section 249(3) of the Act is misconceived. A perusal of the said provision would show that a person, Sarpanch or Upa sarpanch, who is removed from his office, shall not be eligible for re-election as Sarpanch or Upa Sarpanch for a period of two years from the date of the removal. But, in this case, as the elections were already held in August 2006, next elections are due only in 2011. Therefore, much harm would not be caused to the petitioner.

The writ petition, with the above observations, is accordingly dismissed. No costs.

(V.V.S.RAO,J)

February 22, 2007.

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